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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

EUGENE DIVISION

<p>WILLAMETTE RIVERKEEPER, an Oregon non-profit corporation,</p> <p>Plaintiff</p> <p>vs.</p>	<p>Case No.: 6:20-cv-002189-AA</p> <p>JOINT RULE 26(f) DISCOVERY PLAN</p> <p>(Freedom of Information Act, 5 U.S.C. § 552 <i>et seq.</i>, Administrative Procedure Act, 5 U.S.C. § 701 <i>et seq.</i>)</p>
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UNITED STATES ARMY CORPS OF ENGINEERS, an agency of the United States of America, Defendant.	
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Pursuant to the Court’s Scheduling Order, Dkt. 4, Fed. R. Civ. P. 26(f)(2), and LR-26, Plaintiff Willamette Riverkeeper (“Plaintiff”) and Defendant the U.S. Army Corps of Engineers (“Defendant”) (collectively the “Parties”) respectfully submit the following Rule 26(f)(3) proposed discovery plan. Counsel for the Parties held their Rule 26(f) discovery planning conference on March 9, 2021.

- FRCP 26(f)(3)(A):** The Parties agree that because this matter is based on Plaintiff’s claims under the Freedom of Information Act (FOIA) and the Administrative Procedure Act (APA) arising out of the Defendant’s alleged failures in processing and responding to Plaintiff’s FOIA request, the Parties do not anticipate the need for initial disclosures or for discovery in this case. Defendant released 3,287 pages of records on December 16, 2020. The Parties have been, and are continuing, to attempt to reach a proposed scheduling and case management stipulation addressing a process for the timing of Defendant’s release of responsive records, Defendant’s justification for withholding any records, in whole or in part, Plaintiff’s challenges to those releases, and meet and confers regarding disputes before bringing such matter to the Court’s attention.
- FRCP 26(f)(3)(B):** The Parties agree that there is no need for discovery in this matter.
- FRCP 26(f)(3)(C):** The Parties agree that the Plaintiff has no need to preserve electronically stored information. Defendant agrees to release responsive records in PDF

format with Optical Character Recognition (OCR) functionality, where feasible, and Bates numbering to each separate PDF page.

- **FRCP 26(f)(3)(D):** The Parties agree that this matter is unlikely to go to trial. The Parties agree that any information Defendant may withhold or redact from responsive records under a claim of privilege or protection, or any other basis for withholding or redacting information, must be justified under a FOIA exemption pursuant to 5 U.S.C. § 552(b).
- **FRCP 26(f)(3)(E):** The Parties do not anticipate the need for discovery in this matter or changes to any limitations outlined in the Federal Rules of Civil Procedure.
- **FRCP 26(f)(3)(F):** Information Defendant may withhold or redact from responsive records must be justified under a FOIA exemption pursuant to 5 U.S.C. § 552(b). No protective orders are needed at this time, but should the need arise, the Parties will promptly confer and, if necessary, notify the Court if any disputes arise that cannot be resolved by stipulation. The Parties do not anticipate a trial in this matter and do not anticipate the need for orders under Rule 26(c), Rule 16(b) or (c).

Jointly submitted this 22nd day of March, 2021.

FOR PLAINTIFF
WILLAMETTE RIVERKEEPER

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